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Paper 1
DECLARED 18 May 2011

UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,812 (RT)
(From Technology Center 1700)

BAYER MATERIALSCIENCE LLC
(11/125,443),
Junior Party,

v.

NOVEON, INC.
(6,734,273),
Senior Party.

DECLARATION - BD.R. 203¹

By RICHARD TORCZON, Administrative Patent Judge.

A. DECLARATION OF INTERFERENCE

An interference is declared pursuant to 35 U.S.C. 135(a). Details of the application, patent, count, and claims designated as corresponding to the count appear under headings E and F.

¹ "Bd.R. x" may be used to abbreviate "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

B. DESIGNATION TO MANAGE

Administrative Patent Judge Richard Torczon has been designated to manage the interference. Bd.R. 104(a).

C. STANDING ORDER

A copy of the Standing Order (SO, Paper 2) accompanies this declaration. The Standing Order applies to this contested case.

D. CONFERENCE CALL TO SET DATES

A telephone conference call to set dates for action in this contested case is scheduled for 10 a.m. (Eastern) on 20 July 2011. (The Board will initiate the call.)

No later than 18 July 2011, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd.R. 120; Bd.R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the Standing Order. The parties are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. A party requesting more or less time should be prepared to justify the request.

E. THE PARTIES TO THIS INTERFERENCE

Junior Party

Application: 11/125,443, filed 10 May 2005

Title: High molecular weight thermoplastic polyurethanes made from polyols having high secondary hydroxyl content

Inventors: Nigel Barksby of Moon Township , Pennsylvania;
Gary Allen of Wexford, Pennsylvania; and Kamal
[sic] Onder of Brecksville, Ohio

Senior Party

Patent: 6,734,273, granted 11 May 2004

Title: High molecular weight thermoplastic polyurethanes
made from polyols having high secondary hydroxyl
content

Inventor: Kemal Onder of Brecksville, Ohio

F. COUNTS AND CLAIMS OF THE PARTIES

Count 1

A polyurethane of 6,734,273 claim 1.

The claims of the parties are:

Bayer: 1-30

Noveon: 1-30

The claims corresponding to Count 1:

Bayer: all

Noveon: all

The benefit accorded for Count 1:

Bayer: 11/125,443, filed 10 May 2005

Noveon: 09/781,791, filed 12 February 2001

G. HEADING TO BE USED ON PAPERS;
EXHIBIT NUMBERS

Addendum 1 provides the heading that shall be used on all papers
filed in the contested case. See SO ¶ 106.1.1.

The ranges of exhibit numbers are assigned as follows
(Bd.R. 154(c)(1); SO ¶ 154.2.1):

Noveon: 1001-1999.

Bayer: 2001-2999.

H. ORDER FORM FOR REQUESTING FILE COPIES

When requesting copies of files, use of Addendum 2 (SO Form 4) will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

Attachment: None.²

Enclosure: Copy of Standing Order (Paper 2)

cc:

Lyndanne M. Whealen, BAYER MATERIALSCIENCE LLC, of Pittsburgh, Pennsylvania.

Joe A. Powell, NOVEON, INC., of Cleveland, Ohio.

² For a United States patent or published application listed in this paper, see <http://patft.uspto.gov/>; see also <http://portal.uspto.gov/external/portal/pair> for prosecution histories available to the public.

ADDENDUM 1: PAPER HEADING

Filed on behalf of: [Name of Party] Paper No. [Leave blank]

By: [Name of lead counsel]
Name of backup counsel
Street address
City, State, and ZIP Code
Tel:
Fax:

]

UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,8xx (RT)

BAYER MATERIALSCIENCE LLC
(11/125,443),
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NOVEON, INC.
(6,734,273),
Senior Party.

[TITLE OF PAPER]

ADDENDUM 2: FILE COPY REQUEST
Patent Interference No. 105,8xx

Attach a copy of sections E and F of this declaration to this request.
On the copy, circle each patent and application that you are requesting.
Include the information indicated below to facilitate processing of this request.

Charge fees to:

1. USPTO Deposit Account No. _____

2. Complete delivery address, including street, city, state, ZIP code:

3. Telephone, including area code: _____

